

REMARKS

Entry of the foregoing and consideration of the remarks which follow are respectfully requested.

Claims 33-38 have been rejected under 35 U.S.C. §102(e) as being anticipated by Collins et al, U.S. Patent No. 5,710,023, and Collins et al, U.S. Patent No. 6,214,559. A showing under 37 C.F.R. §1.608 was requested. However, such a showing need not be made. The instant application and both Collins et al patents are all assigned of record to Wyeth. As such, an interference would not be appropriate and a §1.608 showing not necessary.

Under §1.602(a), since the application and Collins et al patents are all owned by Wyeth, Wyeth should make a determination of which set of inventors was the first to invent, and to whom priority should be granted. The instant application was previously assigned of record to Zymogenetics. To avoid an interference, Zymogenetics and Wyeth entered into a settlement agreement, and had a priority determination made by a neutral third-party. A decision was rendered by the neutral third-party, however, pursuant to the agreement, no reasons for that decision were provided. Pursuant to the settlement agreement, the Zymogenetics application was then assigned to Wyeth.

However, in view of the duty of disclosure, Applicants believe that they must make of record facts relating to the priority determination. Applicants are preparing for submission an Information Disclosure Statement to make of record information regarding that priority determination.

Upon submission of the Information Disclosure Statement, Applicants request that the Examiner consider the information enclosed therewith. In the event that the Examiner is going to begin review of the application and has not yet received Applicants' further submission, it would be appreciated if the Examiner would contact the undersigned attorney by telephone at (650) 622-2360 prior to that review.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would contact the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

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